

## **II. REMARKS/ARGUMENTS**

### **A. Remarks.**

Claims 1 and 8 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applications regards as the invention. Claims 1-5 and 10-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dines et al., U.S. Patent No. 4,694,754. Claims 8 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dines et al. '754 in view of Fritz et al., U.S. Patent No. 5,505,135. Claims 7, 9, 14, and 15 have been objected to as being dependent on a rejected base claim, but were found to be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims.

### **B. Response**

#### **1. 35 U.S.C. § 112 – Claims 1 and 8**

Claims 1 and 8 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicants regard as the invention. More specifically, insufficient basis was found for the term “the outer edge” of claim 1 and for the term “the base” in claim 8. In response, with this paper the term “the outer edge” of claim 1 is being deleted, and the term “base” of claim 8 is being changed to “closed end.”

#### **2. 35 U.S.C. § 102(b) – Claims 1-5 and 10-12**

Claims 1-5 and 10-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dines et al., '754. Dines et al. '754 was cited for the proposition that it teaches a shaped charge assembly comprising a tubular casing, with an open and closed end, walls extending from an

outer edge of the closed end, and a reinforcing system circumscribing at least a portion of the casing.

In response, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully disagree that the jacket 146 of Dines et al. '754 constitutes a reinforcing system. The jacket 146 is described as "... an *elastomeric* jacket 146 ... preferably constructed of *rubber*." Column 6 lines 13 – 15. Nowhere in Dines et al. '754 is the jacket 146 described as adding structural integrity to the casing. Therefore the jacket 146 of Dines et al. '754 is not a reinforcing system. Because Dines et al. '754 does not contain each and every element of claim 1, it is respectfully requested that this reference be removed as a basis for the rejection of claim 1. Moreover, since claims 4, 5, and 10-12 depend from claim 1, either directly or indirectly, these claims are also not anticipated by Dines et al. '754.

### 3. 35 U.S.C. § 103(a) – Claims 8 and 13

Claims 8 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dines et al. '754 in view of Fritz et al. '135. Dines et al. '754 was cited as teaching all of the limitations of claims 8 and 13 except for the decreasing of the wall thickness. Fritz et al. '135 was cited as teaching the decreasing of the walls from the base to the open end. It was thus concluded obvious to those of ordinary skill in the art to have the walls of Dines et al. '754 decreasing from the base as taught by Fritz et al. '135.

In response, to sustain a rejection under 35 U.S.C. § 103(a) a prima facie case of obviousness must be established. M.P.E.P. § 2142. To establish a prima facie case of

obviousness three basic criteria must be met. First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art references (or references when combined) must teach or suggest all the claim limitations. *Id.*

As noted above, Dines et al. '754 does not include a reinforcing system, instead it discloses a rubber jacket 146. Thus the combination of the cited references does not teach or suggest all of the claim limitations of claim 8 or 13. It is therefore respectfully requested that these references be removed as a basis for the rejection of claims 8 and 13 under 35 U.S.C. § 103(a).

#### C. Cited References

References were cited in the Office Action that were not otherwise referenced in the body of the Office Action. Those references are Christopher (U.S. Patent No. 4,784,061), Hakala et al. (U.S. Patent No. 3,282,354), Riggs (U.S. Patent No. 4,794,990), Lebourg (U.S. Patent No. 3,048,101), Bell (U.S. Patent No. 3,327,630), Rommer (U.S. Patent No. 4,273,047), Hakala (U.S. Patent No. 3,444,810), Delacour (U.S. Patent No. 2,796,022), Bouguyon et al. (U.S. Patent No. 3,991,836), and Lavigne et al. (U.S. Patent No. 3,965,993). These references do not add information to issues already raised and discussed, and as such do not affect the patentability of the claims of the subject application.

### **III. CONCLUSION**

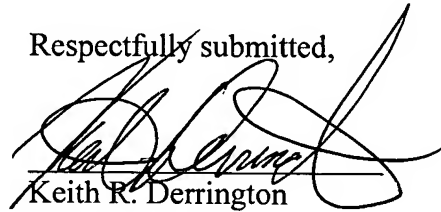
It is respectfully urged that in light of the above stated amendments and submissions that applicants' claims are patentable in light of the prior art. Claims 1 and 8 have been amended to

overcome the rejection under 35 U.S.C. § 112. The rejection of claims 1-5 and 10-12 under 35 U.S.C. § 102(b) should be reconsidered and removed and the rejection of claims 8 and 13 under 35 U.S.C. § 103(a) should be removed as well. It is believed that the foregoing response is full and complete. Applicants respectfully request reconsideration of the instant application in light of the foregoing response and amendments.

Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of the application, the Examiner is invited to contact the Applicants' representative by telephone or fax.

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Respectfully submitted,



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